

DENIED

DELEON H. HOLMES
vs. TERRY L. WOOSTEN
U.S. DISTRICT JUDGE

DATE 5/7/12
THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

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CASE NO.4:04-000811-TLW

UNITED STATES OF AMERICA

NOW COMES, the Defendant, Deleon H. Holmes, through pro-se and respectfully moves this Honorable Court, pursuant to Fed.R.Crim.P.36, to correct the Judgment entered against him in the above captioned case to reflect the fact that the Defendant receive credit for time served while detained in this case from Nov.10,2004 through Feb.27,2006.

On or about Sept.2004, the Defendant was named in a criminal complaint and warrants were issued for his arrest.

On or about Sept.2004, a temporary order detention was issued by a United States Magistrate.

On or about Nov.2004, the Defendant appeared before a United States Magistrate and was ordered detained on the instant charges.

On or about Nov. 10,2004, the Defendant was released on a \$100,000.00 unsecured bond and conditions which included monthly uranylisis..

Pursuant to the Defendant's Plea Agreement, the Government agreed that it would not oppose this Court's recommendation to the United States Bureau of Prisons that the Defendant be given credit for time served from Nov.2004 to Feb.2006.

However, in the Presentence Report, the Probation Department declined to recommend that the Defendant receive credit for time served.

The Defendant was sentenced on Dec.15,2006, at which time the issue of credit for time served was not addressed.

Additionally, the Judgment issued by this Court was silent regarding whether the Defendant was to receive credit for time served.

At the present time, the Bureau of Prisons will not give the Defendant credit for time served without a specific recommendation from this court.

Fed.R.Crim.P.36 permits this Court to correct a clerical error in its Judgment at any time.

It is respectfully submitted that the absence of a reference in the Defendant's Judgment concerning whether the Defendant was to receive credit for time served constitutes a clerical error pursuant to Rule 36.

It is further submitted that, particularly given the fact that the Government did not object to the Defendant receiving credit for time served, this Court should amend its Judgment to recommend that the Defendant received credit for time served from Nov. 10, 2004 until Feb. 2006.

WHEREFORE, based on the foregoing arguments and authorities, this Honorable Court is respectfully urged to amend the Defendant's Judgment as requested.

DATED 5-1-2012

Respectfully submitted

Deleon Holmes #11570-171
Deleon H. Holmes #11570-171
P.O. Box 340
Salters, SC 29590

CERTIFICATE OF SERVICE

I, Deleon H. Holmes, do swear that a true copy of this Motion to Correct Judgment was mailed postage pre-paid and mailed to the address listed below on this 1 day of May 2012.

CLERK OF COURT
P.O. BOX 2317
Florence, SC 29501

Respectfully submitted

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